



Port of Stockton Commissioners and Staff
2201 West Washington Street
Stockton, California 95203
Via email to mrodriguez@stocktonport.com

5.20.2024

Re: Community Communication

The Delta-Sierra Group representatives met Port of Stockton representatives on 5.13.2024 to suggest and discuss opportunities to improve community communication. Representatives of the Delta-Sierra Group of the Sierra Club (DSG) included Margo Praus, Mary Elizabeth, Eric Parfrey, Richard Abood, and Jeri Bigbee and representatives of the Port of Stockton included Kirk DeJesus, Jeff Wingfield, and Jason Cashman. The following general topics were discussed:

- 1) GSNR and the Port as a responsible agency representing overburdened and vulnerable Stockton residents.
- 2) The Port's Community Benefit Program and BayoTech's community benefit agreement development process.
- 3) Communication and information flow from the Port to the Community and from the Community to the Port.

A full summary of the meeting notes is located in Attachment 1, a chronology of the BayoTech community agreement development process in Attachment 2, and a summary of Public Records Act requests and information obtained.

Port of Stockton responsible agency GSNR wood pellet project DEIR comment development¹

The Port of Stockton and its tenants are a pollution concern for our community living in a nonattainment air quality zone and a designated California Air Resources Board (CARB) AB 617 Communities with an established Community Emission Reduction Plan. A new pollution threat on the horizon to which the DSG and other partners want the Port to say 'no' to, is the 1,000,000 metric ton wood pellet production and export project. This wood pellet production (2 processing plants) and export to overseas markets to use in coal burning electricity facilities is advanced by Golden State Natural Resources (GSNR), Golden State Finance Authority (GSFA) the CEQA lead agency, and governed by representatives of the Rural County Representatives of California (RCRC). The Golden State Natural Resources (GSNR) wood pellet development and export project has narrowed their port focus to Stockton and the DSG and other partners understand that GSNR must seek a tenancy agreement with the Port of Stockton. Secondly, the Port of Stockton has been listed as a responsible agency as the GSNR wood pellet production facility and export facilities impacts are considered through the CEQA process.

Whole trees will be taken from forests, trucked to pellet mills (not sawmills), formed into pellets, dried, shipped by rail to the Port of Stockton, stored, and then shipped overseas to be burned in power plants. Combustion of wood for electricity production is not energy efficient and results in significant air quality impacts. DTE which combusts wood for electricity production and located in the Port of Stockton is the largest stationary source emitter of air pollutants in Stockton, and within the AB617 Stockton boundary. Wood and subsequent wood pellet transportation, storage, and

¹ Written comments of Rita Forest, Natural Resources Defense Council, 5.8.2024, were included herein.

eventual export is dirty and dangerous. If material is solely sent by rail, the Stockton community will be exposed to an additional 7,000 rail cars each year as wood pellets are sent through San Joaquin County to the Port from Tuolumne County and Lassen County. The Tuolumne County wood pellet production facility will convey wood pellets to Stockton on the Northern-Sierra Railroad to Oakdale, then on the BNSF to the Port of Stockton. The Lassen County wood pellet production facility will convey wood pellets to Stockton on the Union Pacific Railroad. Furthermore, GSNR's proposals will increase ocean-going vessel traffic, in and out of the Port, using the older more polluting marine engines which represent a significant portion of mobile emission pollutants in the community of Stockton, creating noise, dust, and diesel emission pollution. The pellets will be shipped to foreign utilities and burned for energy—increasing greenhouse gas emissions contributing to climate change, a crisis that is already harming our impacted community, with droughts, floods, increased heat exposure, vector migration, and decreased freeze days impacting our agricultural heritage.

Another consideration for the Port is the wood pellets that GSNR wants to produce and export out of Stockton are part of an industry that is propped up by huge foreign government subsidies on the premise that wood pellets are “green sources of energy.” However, the emerging scientific consensus is that those policies are scientifically indefensible and outdated. These subsidies could quickly disappear, leaving the Port of Stockton with a stranded asset.

When a tenancy agreement is considered, DSG and partners ask the Port of Stockton to deny such an agreement, making a similar decision to the Port of Richmond. Instead, the Port of Stockton should partner with Stockton residents to develop a long ranging sustainable strategic plan that will not degrade the environment and harm residents' health while allowing for economic growth.

Information was conveyed by the DSG to the Port regarding the GSNR project feasibility analysis and the Port will communicate with the local GSNR representative. When the GSNR Project DEIR is released within the next few weeks, the Port agreed to meet with community members to discuss concerns and comments to be considered by the Port when preparing CEQA comments as a responsibility agency.

Community Benefit Program

The DSG initiated dialogue with the Port to begin communications regarding the Port Community Benefit Program which is referenced in the BayoTech Recirculated IS/MND and discussed with BayoTech. The intent of the Port Community Benefit Program is to provide a means by which the community benefit agreement is enforceable without the community having to seek legal representation to enforce the terms of the agreement. Questions about how far along was the development of the Port's Community Benefit Program were answered with only in the initial discussion of a conceptual plan with input from the Port's consultant with some previous experience. As the Port has indicated that community benefit agreements entered into by community organizations and Port project proponents would now be enforced under Port lease enforcement mechanisms. Further discussion will be necessary as the community needs to understand this process.

The Port Community Benefit Program should specify a governance structure that includes representatives from the Port of Stockton, the groups commenting on CEQA deficiencies such as were not fully mitigated and the affected community. A governance document outlining roles and responsibilities is necessary. The Port should have periodic meetings to provide updates on implementation and enforcement. The enforcement of lease agreements must be completely

transparent and auditable. The disbursement of community benefit funds should be clearly identified in any community benefit agreement and signatories of the agreement.

BayoTech continues to engage in agreement development efforts with the most recent meeting request set for 5.28.2024, virtually, from 5:00 to 6:00 PM. We believe that the Port could benefit from listening to concerns and questions posed by community members, two Port staff were invited to this meeting.

Also discussed was the community benefit fund that was announced by Home Depot during the 12.4.2023 certification of the FEIR for the TC NOR Cal development project. Home Depot committed to increasing the number of heavy duty truck electrical chargers from two to three and \$200,000 toward community benefits. This amount is the same as was obtained for community benefits associates with the DSG and City of Stockton Mariposa/Home Depot settlement agreement. No discussion with any community group involved with the project is known to have been initiated. We have included a summary and documentation of the meetings between community groups and BayoTech in Attachment 2.

Subsequent to the Port-DSG meeting, the DSG obtained from the San Joaquin Community Foundation a recording of the 5.14.2024 webinar and slides that were developed by Technical Assistance Providers for The Center at Sierra Health Foundation. The statewide webinar was entitled CBAs and More with Julian Gross² and was also attended by representatives of the DSG and all attendees were encouraged to share widely.

Communication and Information Flow

The DSG appreciates the opportunity to meet with Port Staff and Commissioners to discuss ways to improve communication and community engagement. As has been stated on multiple occasions, significant improvements have occurred over the last five years, but we see opportunities to make further improvements. Specific areas where some improvements can be made include meeting minutes, Port Outreach Committee engagement, public workshops and meetings, and Public Record Act requests. We have included specific examples and chronological summaries in Attachment 3.

DSG appreciates that minutes are now posted on the Commission Agenda webpage along with meeting recordings. Minutes now do not include written communications submitted even when submitted three hours in advance of the meeting. This would be very helpful for community members to learn more about issues of concern and would create a more open and transparent flow of information, as opposed to community members having to make Public Record Act requests. The Port indicated that this would be initiated as soon as possible and in advance of draft minutes that are considered by the Commissioners at their next meeting.

When reviewing Port Outreach Committee records the DSG was able to locate most recordings but no agenda or announcements of the meetings or information how to attend, other than to sign up for email announcements. The Port noted that this was something that could easily be accommodated. The Port has been open to welcoming community members to learn more about the Port and participate in outreach efforts.

² Transmitted by Erika Katske, ekatske@ucsc.edu Wednesday, May 15, 2024 3:22 PM. Video of presentation: <https://drive.google.com/file/d/1QUmfEbpwZlWEQHkrGrrJbosrCHAelgbh/view>. Presentation slides: https://drive.google.com/file/d/1nlwQq_kZMfJptKakAL9DqeLKMO6j7fFa/view?usp=sharing

During a recent open house for the BayoTech IS/MND which followed the hybrid meeting, a community member experienced a hostile environment when BayoTech staff contended that a document released by the Port with the Recirculated IS/MND was submitted to the City of Stockton but was not public. The notes the community member took on the document were not retained and Port staff did nothing to clarify the situation but reviewing what information was released on their website so that the contention by BayoTech staff that document was confidential would have been proven false. When Port representatives have invited Project Proponents and community members to engage in information sharing, it is vital that the space be safe. Having eight BayoTech staff accusing and demanding that a paper provided by BayoTech be returned with one community member and Port staff onlooking does not create an environment that is welcoming to community input.

Prior to the referenced open house, a hybrid meeting was held using zoom. This was an excellent opportunity for members of the public, located away from Port facilities, to speak their comments in their own voices. The DSG appreciates that the Chairperson presiding over Commission meetings allows the reading into the minutes of written comments submitted, up to 3 minutes, but this is not a certainty and often does not capture the full content of the comment. Including a zoom component would allow community members the opportunity to speak before the Commissioners. We believe that this added dimension will further facilitate community involvement. As indicated previously, the DSG appreciates that written comments will be posted for members of the public to review without having to make a Public Record Act request. The Port indicated that there may be some technical issues with including a zoom component for public comment but that the request will be considered, especially since there is no online commenting currently available.

On several occasions the DSG has engaged in the Public Record Act request process with the Port. Government Code includes language to direct agencies to assist members of public and to provide reasons when a document is not being released. We recently discovered a document which the Port continued to state was not available with no explanation, suggesting that the Port never received the document. Evidence exists and is provided in Attachment 3 that the document was sent to the Port. The associated email showing the document transmittal has been forwarded to the Port. Please make clear what is the Port's document retention policy and what community members should expect when requesting information under the Public Records Act. If a document is not available because it has been deemed confidential, the Public Record Act requires that the reason a document is not being made available is disclosed.

We hope that our dialogue was productive and that continued conversations can occur to build community trust.

Sincerely,

Mary Elizabeth M.S., R.E.H.S.
Delta-Sierra Group
Conservation Chair
Sierra Club
Melizabeth.sierra@gmail.com

Margo Praus
Delta-Sierra Group
Executive Committee Chair
Sierra Club

Attachment 1 May 13, 2024 DSG and Port Meeting Summary

5.13.2024 meeting notes (4:00-5:20) at the Port of Stockton office 2201 W Washington St, Stockton, CA 95203 prepared by Mary Elizabeth and available for comment and revisions 5.17.2024 and finalized 5.18.2024 0943.

The meeting attendees were Kirk DeJesus, Jeff Wingfield, Jason Cashman, Margo Praus, Mary Elizabeth, Eric Parfrey, Richard Abood, and Jeri Bigbee

GSNR wood pellet export project (1 million metric tons annually)

The Port staff stated that in their view a project has not yet been defined even though Golden State Natural Resources (GSNR) has identified a preferred location on Rough and Ready Island. The DSG was not able to immediately provide the exact location but did direct the Port to the GSNR Port of Stockton webpage. DSG stated that through a public information request that a feasibility analysis for the project was obtained even though when asked during the 3.27.24 special GSNR Board meeting held in Stockton, CA, GSNR staff indicated that the document was confidential, but another GSNR staff person rose and stated that the document had been released and would be provided. The Port stated that they have not seen any business models, operational plans, nor discussed any rates or fees with GSNR. The DSG stated they would forward the feasibility analysis. Subsequently, on 5.14.2024, DSG forwarded to the Port the feasibility analysis document.

The DSG informed the Port staff that a CEQA document will be released shortly for the GSNR 1,000,000 metric tons of wood pellet from California forests that will increase CO₂ emissions worsening global warming and all associated results. Additionally, the GSNR consultation with Caltrans was limited and GSNR seems to be relying on Lassen and Tuolumne Counties to coordinate review. The Port staff seemed unsure about what GSNR CEQA consultants were basing their Stockton transportation analyses upon. The Port acknowledged, as a responsible agency, that they would be preparing comments. The DSG indicated that they have requested a longer review period, but regardless they would like to arrange meetings with the Port, and others working on the GSNR project, to discuss our concerns with the project and the CEQA analysis. The Port expressed some surprise about the community outreach process, indicated that the Port was not receiving updates and would arrange for a meeting with Bob Gutierrez, GSNR's local representative to discuss further. The Port stated that they would welcome meetings with community members to discuss CEQA comments. Subsequently, the DSG received notice that a meeting with Bob Gutierrez is scheduled for the week of 5.20.2024 to discuss GSNR's plans and proposed operations so that some concrete information is provided to the Port.

The DSG brought up that they hoped that the Port would work with community groups to develop a vision for a sustainable port model that does not continue to pollute Stockton and stated that support of some transportation expansion improvements, without that commitment, is difficult. Expansion of transportation facilities has resulted in increased transportation related traffic and increased the pollutant burden of the community, already overburdened. The Port was amenable to continued discussions. The DSG stated that it is critical that CEQA lead agencies stop making findings of overriding significance that leads to increased pollutant burdens. The DSG stated that the residents of Stockton pooled their resources to create and build the Port of Stockton and the residents need to reap more than jobs and increased pollution.

Port Community Benefit Program

DSG stated that initially the Port had indicated that any community benefit agreement entered into with a proposed or existing tenant would not be enforced by the Port, not part of lease requirements, or CEQA documents to be certified. With the release of the BayoTech Recirculated IS/MND the Port stated in the document that there was a Port Community Benefit Program. The Port stated that the program is under development. DSG stated that it was imperative that the program be developed before any community benefit agreement was entered into otherwise outside attorneys would have to be involved for enforcement. Some issues that need to be finalized with regard to the Port Community Benefit Program were in the DSG Coalition 4.25.2024 BayoTech comment letter which was not specifically discussed. Generally, these issues include governance, disbursement, enforcement, oversight, and access to tenant lease language related to a community benefit agreement. A comment was made about a document to tell tenants what to expect.

The Port stated that the Port gave BayoTech some ideas about possible community benefits similar to those included in the AB617 Community Emission Reduction Plan (CERP) and things like scholarship lists. The Port has not been sitting in BayoTech community benefit agreement meetings. The DSG provided the Port with a copy of the 11.25.2023 DSG Coalition correspondence in response to a proposed community benefit document and the most current 4.8.2024 Draft Community Benefit Agreement. The DSG stated that a review of City of Stockton permitting documents indicated that the amount offered for GRID Alternative solar installations was a single donation of \$25,000, the same as BayoTech paid for the City of Stockton permit application review, for the \$5,000,000 facility.

The Port mentioned the advanced outreach that the Denmar did for the soda ash (sodium carbonate) export project was successful and should be a model considered. Briefly discussed was the status of the Denmar project which has not started construction, waiting on source mine expansion to be completed this summer, and anticipate that Denmar port operations will begin in 2028 to.

The DSG stated that during the Public Hearing for certification of the TC/NOR CAL FEIR that Home Depot the proposed occupancy tenant committed to an extra heavy duty truck charger for a total of three and to a community benefit fund of \$200,000. While the DSG did not directly negotiate this sum with the project proponents, it is the same sum that was agreed to in settlement for the Mariposa/Walmart project to do specific home improvements to mitigate air quality impacts to nearby residents in addition to other mitigation measures that reduced emissions and exposure. The DSG requested an update on this project status and how the \$200,000 will be collected and dispersed. The Port staff will be reviewing the meeting video to capture the language used and will check on the lease conditions which are in the drafting process. The DSG informed the Port that Home Depot was in negotiations with the City for a tax incentive which the DSG had forwarded comments made prior to the item being pulled by City of Stockton staff from the City Council meeting agenda. Again, the DSG emphasized that there was a finding of significant overriding considerations made when the Port Commissioners certified the FEIR in December and then the project proponent is making efforts to reduce taxes collected by the city, resulting in the City of Stockton using general funds from resident taxes and fees to pay for maintenance of the facilities used without the industry paying their fair share.

The Port indicated that they have been in communication with their consultant about a community benefit program and that the consultant had experience with community benefits at the Port of Los Angeles.

The DSG spoke about other warehousing projects which are under consideration and expectations to reduce pollutant burdens by industrial development which while not as concentrated as in the inland empire (San Bernardino and Riverside Counties) has had a significant effect in the Tracy, Manteca, Lathrop, and Stockton areas. The DSG spoke briefly about the warehouse ordinance development process and status in Stockton and about a Manteca commitment to consider an ordinance to standardize minimum mitigation measures. The DSG stated that the Port was aware of the Mariposa Settlement and ordinance development process as the Port had submitted a comment letter indicating that the development agreement the Port has with the City of Stockton excludes the Port from any requirements that could be included in the warehouse ordinance. The DSG provided the Port with a copy of the 5.9.2024 letter submitted to the Planning Commission and Council regarding the warehouse ordinance status.

Communication and Information Flow

The DSG referred to a zoom hybrid meeting held on April 9, 2024, at the Port of Stockton in advance of the April 10, 2024, community benefit agreement meeting at United Way with BayoTech representatives. The DSG stated that the zoom hybrid meeting with speakers sharing voices and faces made comments more real for folks that cannot attend Commission meetings. Including a zoom comment component with the youtube streaming of the meeting would be an improvement, as now there are no online comments taken. The DSG stated that they appreciated the reading of comments for three minutes but that sometimes that does not capture the full comment and would the Port consider posting a file with written comments received on the Port Commissioner meeting page immediately following the meeting to avoid the residents having to make public record act requests. The DSG referred to a policy document that the Port Commission has been reviewing recently that included a 2 hour (not 3 hour) receipt in advance, specificity in the topic of the comment and that if received thusly the written comments may be posted. The DSG requested that the term “may” be replaced with “shall” in the policy. Port staff stated that was possible and subsequently indicated that the practice would be implemented as soon as the meeting 5.20.2024.

The DSG described an unfortunate situation which occurred to a sole member of the public meeting with BayoTech representatives at the in person workshop that followed the 5.9.2024 hybrid meeting. Specific questions were posed regarding the pipelines around the proposed site and within the site boundary. A paper was provided to a member of the public and notes written as the BayoTech representative explained the routing of pipelines and sizes. Specific information as to dates of installation were never provided. At the end of the conversation and notetaking effort, the member of the public was informed that the map was confidential, and that the member of the public snatched the paper that was provided by another BayoTech representative and had been taking extensive notes upon. There were about 8 in the room with BayoTech representatives, a Port staff member and Port consultant. The reason for confidentiality was stated to be that the document was included in the City of Stockton building permit application which are not public documents. The member of the public left the document with the BayoTech representatives after looking for the Port

staff to intervene. The document was familiar to the member of the public because the document was part of the CEQA documents available for public review on the Port's website. The DSG stated the importance of Port involvement with developer-public interactions when hosting informational events. The Port indicated that more attention will be given to power dynamics that may be evidenced and stay involved with interactions.

The DSG noted that as currently posted there are two hidden Port Outreach Committee meeting videos not available for viewing. The DSG suggested that there be agendas posted for the outreach meetings so that the public might attend without having to get on an email list and know what is going on. There are currently no agenda postings to inform the community about the meeting topics. The DSG also stated that some issues of concern to the community are not being addressed given the existing form of the Port Outreach Committee which has limited time for dialoguing. The DSG welcomes more discussions about how the meetings can better address specific concerns of the community. The Port had indicated that there was some consideration underway about reframing the outreach committee.

The DSG requested a copy of the Port of Stockton document retention policy because there were some irregularities with regard to Public Record Act requests about a reimbursement document GSNR forwarded to the Port of Stockton. The DSG stated that the final email received by the DSG, as a result of another public records act request, from RCRC on behalf of GSNR indicated that the reimbursement agreement document was received by the Port as outlined in a chronological summary DSG has prepared. The DSG thought that the RCRC would have forwarded the second public records act request to the Port as the RCRC had done with the results of first public record act request. The DSG subsequently forwarded the latest RCRC communication to the Port. The Port subsequently forwarded the Port of Stockton document retention policy to the DSG.

Attachment 2: BayoTech Community Benefits Agreement Development Summary

The Delta-Sierra Group, Catholic Charities, Little Manila Rising, Environmental Justice Coalition for Water, and Restore the Delta submitted a comment letter on the proposed BayoTech Hydrogen Production Project 7.10.2023 in which we suggested that some community based mitigation be required.³ On 8.21.2023 several organizations and residents submitted comments to Port Commissioners during the non-agenda portion of the meeting expressing the need for a full environmental impact report. On 8.30.2023, DSG received a Public Record Act response that there are no responsive records exist for “all communications with responsible agencies and trustee agencies regarding whether the BayoTech Hydrogen Production and Dispensing Project required a negative declaration or environment impact report.”

BayoTech sent out a notice about an informational webinar on 9.21.2023 for a webinar to be held on 10.3.2023 between 6:00 and 7:00 PM PST. On 10.11.2023 a recording of the webinar was distributed.⁴ Subsequent to the 9.21.2023 invitation there was another meeting scheduled for an hourlong roundtable discussion on 10.5.2023 at 330 PM at the Port. On 11.8.2023, there was another meeting online at 5:00 PM.

On 11.14.2023, we received a draft memo with items discussed “not including mitigation measures called for in the Port’s CEQA study and report, those mitgants are included in the binding lease agreement between the Port and BayoTech.” The items in the draft memo would be over and above the mitgants required. We responded in writing dated 11.24.2023.⁵ We received a response that our letter was received 12.1.2023.

On 2.8.2024, we received a second version of a community benefit agreement.⁶ We were additional informed by BayoTech of the following:

“Following discussions with the Port, we have learned of plans to recirculate the Initial Study/Mitigated Negative Declaration (IS/MND) for the project due to public comments and an inconsistency related to electricity use within the document. This re-issuance will prompt another public comment period, with details regarding timing to be published by the Port in the coming weeks. During this additional period of public review, we remain dedicated to prioritizing the Community Benefits Plan (CBP). Together, we will address key issues that directly impact the unique needs of your community. We are committed to further collaboration on these vital matters as we navigate through the CEQA process.”

On 2.13.2024, at 5:00 a meeting occurred at Portside Room at 2303 Port Road F to discuss the Community Benefits Agreement. On 2.16.2024, a summary of the meeting and a recording of the meeting was provided.⁷ We received notice that Port planned on recirculated a revised IS/MND. DSG submitted multiple Public Record Act requests to the Port, CPRA #2024-005 and CPRA #2024-006, and by viewing responses submitted to CEQAnet to receive letters submitted on the initial BayoTech IS/MND.

On 3.27.2024, we received notice from the Port of Stockton that a Recirculated IS/MND was available for report and a public meeting to be held on 4.9.2024 at 5:00 PM PST (in person and online) with an in-person open house to be held in the same location at 6:00 PM. On 4.10.2024, BayoTech scheduled another meeting to discuss another draft of community benefit agreement.⁸ Several organizations attended with similar concerns regarding the scope of commitment and how the Port Community Benefit Program will be implemented.

The next community BayoTech Community Benefit Agreement meeting will be held 5.28.2024 from 5:00 to 6:00 PM virtually using Microsoft teams. As the nature of the invitation does not allow the meeting link to be forwarded, the DSG cannot provide a link to attend; however an invitation was sent to Jason Cashman: jcashman@stocktonport.com and to Kirk DeJesus: kdejesus@stocktonport.com. The DSG hopes that Port representatives attend to hear some of the issues that will need to be considered during the development of the Port of Stockton Community Benefit Program.

³ DSG Collective BayoTech comment letter 7.10.2023 https://1drv.ms/b/s!ArrHLCdqwtlig5JsK2RslFP1Jt_bUg?e=2cYWwWU

⁴ BayoTech Webinar 10.3.2024 <https://bayotech.us/port-of-stockton-webinar/>

⁵ DSG Collective BayoTech Community Benefit comment letter 11.24.2023 <https://1drv.ms/b/s!ArrHLCdqwtlig59e-JpXiD8uvksoCw?e=qJJe0T>

⁶ [BayoTech Community Benefit Agreement 2.8.2024.](#)

⁷ BayoTech 2.13.2024 meeting recording <https://youtu.be/z26aA1PlpB4> and summary https://1drv.ms/b/s!ArrHLCdqwtlig7Bm_Cli-ukP1OgMXA?e=jtec3F

⁸ BayoTech Community Benefit Agreement draft 3 4.10.2024. <https://1drv.ms/w/s!ArrHLCdqwtlig7BneHpTe0-a6g9FqQ?e=EBQCLM>

Attachment 3: Community Public Records Act Requests Summary

Public Information Background

For reference, the NuStar Final EIR was certified in 2020 shortly after COVID lockdown without releasing the FEIR to public, despite having put in a public request for information once the meeting agenda was made public and submitting comment on the DEIR. We have attached our FEIR comments for your reference regarding the NuStar FEIR certification.¹ Shortly, thereafter we engaged attorney services who assisted with the preparation of DEIR comments regarding the proposed Lehigh Cement expansion project.² We continued to advocate for community meetings, publishing of minutes on the website, reading of comments when submitted in writing, and meeting recordings. With the help of CARB's Office of Community Air Protection AB617 Stockton representative, meetings are live broadcast and recordings available after the fact.

Agenda Minutes

The agenda webpage now has all of these minutes, presentation materials, and recordings whereas several years ago only the agendas were listed. Still minutes of meetings do not include the complete record of written communications as attested by the minutes of 12.4.2023.³ DSG comments were noted to be part of the administrative record for a project name that was nowhere in public environmental documents and there is no indication as to how members of the public could obtain the full text made as part of the administrative record and those regarding GSNR by the following:

- Mary Elizabeth emailed comments that were read by her and were distributed to the Commission related to Golden State Natural Resources.
- Gary Hughes emailed comments that were read by him and were distributed to the Commission related to Golden State Natural Resources.
- Gloria Alonso provided comments related to Golden State Natural Resources.
- Margo Praus provided comments related to Golden State Natural Resources.
- Rita Vaughan Frost provided comments related to Golden State Natural Resources.

California Government Code Title 5, Division 2, Part 1, Chapter 9, Section 54957.55.

(c) Writings that are public records described in subdivision (b) and distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the local agency or a member of its legislative body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats upon request by a person with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

Nowhere in the minutes is a description of how the public may obtain the materials distributed during the 12.4.2024 meeting. Nowhere in the minutes is the commitment that Home Depot made in a public meeting for more chargers and a \$200,000 community benefit.

Port Policy recently proposed included some fee for obtaining document and the following from draft policy considered April 15, 2024.⁴

Written correspondence addressing items on the agenda or topics under the jurisdiction of the Stockton Port District should be received by the Secretary to the Board no less than two (2) hours in advance of the scheduled start time of the Board meeting. For special meetings of the Board, written correspondence related to items on the agenda should be received no less than two (2) hours in advance of the scheduled start time of the meeting.

¹ DSG Collective NuStar comment letter 4.6.2020. <https://www.sierraclub.org/sites/www.sierraclub.org/files/sce-authors/u14441/4.5.2020%20POS%20250%20Comment%20DSG%20Collective.pdf>

² DSG Collective https://www.sierraclub.org/sites/default/files/sce-authors/u14441/2020_0706_final_Lehigh_Terminal_Port_of_Stkn_excc.pdf SMW <https://www.sierraclub.org/sites/default/files/sce-authors/u14441/Sierra%20Club%20DSG%20SMW%20Lehigh%20Comments%20-%2008-31-20.pdf>

³ Port of Stockton 12.4.2023 Minutes. <https://www.portofstockton.com/wp-content/uploads/2024/01/CommMinutes20231204Approved.pdf>

⁴ Port of Stockton Agenda material 4.15.2024. <https://www.portofstockton.com/wp-content/uploads/2024/04/AgendaItem6.pdf>

Written correspondence that is received prior to the end of the meeting **may be recorded in the official minutes of the Commission.**

The letter or email must clearly identify the specific agenda item being addressed; failure to do so could prevent delivery of your comments. Such materials that are received two (2) hours prior to the meeting will be distributed to the Commission.

Port Outreach Committee

There now is a Port Outreach Committee with meetings held on zoom and Port staff, consultant, or tenants are able to present information. There are some Commissioners that now attend these meetings regularly, which the DSG really appreciate. The DSG request that all meetings be visible (2 hidden and most recent listed in Feb 2024), and that the Community webpage provides the time of the meetings, agendas, and type of meeting whether online or in person for attending, as well as how to gain access.⁵ The format of these meetings makes it difficult for dialoguing about concerns and exploring ways to create conditions that can improve public information flow and environmental conditions for Stockton residents. Perhaps, this lack of dialogue contributed to a violation of the Public Records Act as will be outlined herein.

Port of Stockton Public Record Act Compliance

The Port of Stockton is a public agency and subject to Government Code Division 10 Access to Public Records §7920 - §7931. Public access to information is crucial for our democracy that prides itself on transparency and honesty. Please make public the Port of Stockton records retention policy.

Recently several public information requests have led to documentation that a Public Records Act irregularity has occurred involving the Port of Stockton when stating that no document has been received on several requests. Two public information requests with GSNR have led to receipt of the requested document and evidence that the document the Port of Stockton stated had not been received was sent by email on 11.15.2023, well before the initial 3.28.2024 Port of Stockton public information request.

The 10.30.2023 GSNR Board of Directors meeting agenda⁶ information included a CEQA and Permitting Update dated 10.23.2023 which included the following statements:⁷

“Staff has held meetings with the Port of Stockton on August 14 and October 18 to discuss their permitting process and expectations, and, as noted, anticipates entering into an agreement related to the Port’s review of this project in the very near future.”

On 12.4.2024 several stakeholders provided non-agenda comments to the Port of Stockton Commissioners in support of written comments dated 12.3.2023 submitted by 17 organizations.⁸ The comment letter included statements about agreements between the Port of Stockton and Golden State Natural Resources (GSNR). I provided individual comments as well as specifically stating: “Negotiations for enforceable lease conditions must include the affected community.”⁹

No contact with GSNR in terms of outreach to inform affected communities in Stanislaus or San Joaquin County of rail plans and stockpiling of wood pellets for marine exports through the Port of Stockton had occurred following the June 2023 Reissued Notice of Preparation. The affected communities wanted to put on the record our desires and concerns regarding the GSNR wood pellet export project which would involve 7,000 rail cars/year delivering 1,000,000 metric tons/year of wood pellets to be exported through the Port of Stockton. These increased marine ship trips would represent a 23 percent increase in vessel calls. The Port of

⁵ Port of Stockton 5.6.2024 Community webpage.

⁶ GSNR 10.30.2023 Agenda. https://goldenstatenaturalresources.com/wp-content/uploads/2023/10/10.30.2023_GSNR_BOD_Agenda-v2.pdf

⁷ CEQA and Permitting Update staff report 10.23.2023 https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/2248450/CEQA_Permitting_Update_October_2023_MEMO.pdf

⁸ 12.3.2024 Correspondence to Port of Stockton Commission regarding GSNR wood pellet export project https://drive.google.com/file/d/1z8xHTvOdkdNJHX7XrHXpGlbBm7-5PD_O/view?usp=sharing

⁹ MELizabeth 12.4.2023. <https://1drv.ms/b/s!ArrHLCdqwtlig6QrVQAubL-moQa1tQ?e=UZssZc>

Stockton area has some of the highest pollution burdens (99th percentile), high rates of asthma (96th-99th percentile), low birth rates, and cardiovascular diseases associated with air pollution burdens.

The 12.6.2024 GSNR Board of Directors meeting agenda¹⁰ information included the CEQA and Permitting Update dated 11.28.2023 which included the following statement:¹¹

Staff further submitted a draft Reimbursement Agreement to the Port of Stockton on November 15, 2023, which, when approved, will provide the framework for similar collaboration with the Port.

On 1.18.2024 I forwarded communication from Bob Gutierrez, a GSNR public relations staff to Kirk DeJesus, Port Director regarding an outreach meeting that was scheduled to discuss community concerns. The 1.22.2024 response from Kirk DeJesus stated:

"I spoke with Jeff Wingfield and confirmed that negotiations regarding lease conditions are not currently being discussed. The CEQA reimbursement agreement will simply allow GSNR to work with the Port team to review and suggest mitigation that is consistent with our policy/process."

The 1.24.2024 GSNR Board of Directors meeting agenda¹² included the CEQA and Permitting Update dated 1.16.2024 which included the following statement:¹³

"Staff further anticipates executing a Reimbursement Agreement with the Port of Stockton very shortly, which will provide the framework for similar collaboration with the Port."

The Delta-Sierra Group submitted comments to GSNR for non-agenda comments dated 1.24.2024 which referenced the coalition correspondence dated 1.22.2024 which was addressed to Bob Gutierrez requesting better outreach to the Stockton community.¹⁴

Two outreach opportunities occurred on 3.23.2024 and 3.27.2024, which I attended and on neither occasion was a representative of the Port in attendance to hear community concerns.

On 3.28.2024 I submitted a public information request to the Port of Stockton via:
recordrequest@stocktonport.com

I requested the GSNR/GSFA Reimbursement Agreement with the Port of Stockton referenced https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/2396469/CEQA_Permitting_Update_Jan_2024_MEMO.pdf including the statement: Staff further anticipates executing a Reimbursement Agreement with the Port of Stockton very shortly, which will provide the framework for similar collaboration with the Port.

On 4.8.2024, the Port of Stockton responded as follows:¹⁵

"The Port of Stockton received your request on March 28, 2024 for "GSNR/GSFA Reimbursement Agreement with the Port of Stockton". No responsive records exist."

On 4.11.2024, I submitted another public information request to the Port of Stockton via:
recordrequest@stocktonport.com

I requested the GSNR/GSFA Reimbursement Agreement with the Port of Stockton UNSIGNED. This agreement would not be executed. The document requested has been reported to be sent to the Port in October 2023. Please check with all employees with contact with GSNR.

¹⁰ GSNR 12.6.2023 Agenda. https://goldenstatenaturalresources.com/wp-content/uploads/2023/12/12.6.2023_GSNR_BOD_Agenda.pdf

¹¹ CEQA and Permitting Update staff report 11.28.2023. https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/2312395/CEQA_Permitting_Update_December_2023_MEMO_AW.pdf

¹² GSNR Meeting Agenda. https://goldenstatenaturalresources.com/wp-content/uploads/2024/01/1.24.2024_GSNR_BOD_Agenda.pdf

¹³ CEQA and Permitting Update staff report dated 1.16.2024. https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/2396469/CEQA_Permitting_Update_Jan_2024_MEMO.pdf

¹⁴ DSG 1.24.2024 correspondence. <https://1drv.ms/b/s!ArrHLCdqwTlig6QuKjll1bHjXRbH0w?e=W8XPh5>

¹⁵ POS 4.8.2024 correspondence. <https://1drv.ms/b/s!ArrHLCdqwTlig61v6E1bQGI0NfCrUA?e=NxzVR1>

On 4.15.2023, the Port of Stockton responded:

In an abundant effort to serve, please know that Sylvester Aguilar does not work in the department that would be responsive for your requested document - a CEQA reimbursement agreement. The scope of your requested document would be serviced by the Environmental Department. That department has been consulted and no reimbursement agreement has been drafted, so the status of your requests stand,

On 4.16.2024, GSNR via RCRC responded to a separate 4.10.2024 public records request:

I wanted to follow up on your California Public Records Act request for "a copy of the GSNR/GSFA Reimbursement Agreement submitted to the Port of Stockton." While no final reimbursement agreement has been agreed to and executed by GSNR/GSFA and the Port of Stockton, in accordance with Government Code section 7922.600 we have broadly interpreted your request to include any draft of such an agreement. That draft is attached (standard reimbursement agreement with Port of Stockton staff Jason Cashman identified).

On 4.22.2023, I further clarified the request to the Port of Stockton by email:

I just want to make clear I did not request a reimbursement agreement that the Environmental Department has drafted. I included in the POS 3.28.2024 the following link: https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/2396469/CEQA_Permitting_Update_Jan_2024_MEMO.pdf which is a one page memo. In the document shown above included the statement: Staff further anticipates executing a Reimbursement Agreement with the Port of Stockton very shortly, which will provide the framework for similar collaboration with the Port. I requested a copy of the GSNR/GSFA Reimbursement Agreement with the Port of Stockton UNSIGNED. Please verify that the Port is not in possession of this proposed Reimbursement Agreement.

On 4.25.2024, the Port responded:

The Port of Stockton received your request on 3/28/2024 for "GSNR/GSFA Reimbursement Agreement with the Port of Stockton". Your request included a 1/16/2024 Memo from an outside entity, Golden State Natural Resources (GSNR), which referenced their intent to send the Port of Stockton a reimbursement agreement on a nascent project.

The memo stated specifically, "Staff further anticipates executing a Reimbursement Agreement with the Port of Stockton very shortly, which will provide the framework for similar collaboration with the Port."

Port of Stockton staff correctly determined that your request sought a reimbursement agreement, whether signed or unsigned, coming from GSNR to the Port, and that as of the date of your 3/28/2024 request, that record had not been received.

Port staff have been made aware that on 4/16/2024 GSNR provided you with the requested document. On 4/19/2024, GSNR forwarded to the Port the email that they sent you. As that email contained the requested document, the Port is now in possession of the same record you have.

If you require that the Port of Stockton provide you with that same record, please provide the Port with a new request so that you may receive the same high level of service that the Port maintains with all requests as of the date of receipt.

On 4.26.2024, GSNR vis RCRC responded to a 4.19.2024 request for the transmittal cover or email that was sent to the Port of Stockton to verify the date and time that the draft agreement was received by the Port of Stockton.

From: Bob Gutierrez <bob@bgspublicaffairs.com>
Date: November 15, 2023 at 5:11:10 PM PST

To: Jeff Wingfield <jwingfield@stocktonport.com>

Subject: GSNR -Port Agreement

Jeff, Thank you again. Please see attached updated draft agreement. Let me know if you need anything else. Thank you, Bob

The public document requested 3.28.2024 was received by Port of Stockton staff on 11.15.2024. If the Port of Stockton were withholding the document because the document was considered exempt as a draft interagency record in accordance with §7927.500, then in accordance with §7922.000 the agency shall justify withholding any record by demonstrating the requested record is exempt or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record. The requested document was not provided nor was any explanation as to why the document was not provided.